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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,947	10/04/2005	Frank-Martin Petrat	268500US0PCT	5546
22850	7590	07/08/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER PAK, HANNAH J	
			ART UNIT	PAPER NUMBER
			4171	
			NOTIFICATION DATE	DELIVERY MODE
			07/08/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/529,947	Applicant(s) PETRAT ET AL.	
	Examiner Hannah Pak	Art Unit 4171	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16 and 17 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>06/30/05, 04/01/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-14 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salmon (EP 613 675 A1) in view of a non-patent literature (see "CPC" in *Pharmaceutical & Cosmetic Fields*, WAKO).

The applicants claim a fragrance composition comprising an ionic liquid, a salt with a mixture of a cation and an anion, as a fixative, and a method of producing the same.

With respect to claims 1-12 and 16-17, Salmon discloses employing preferably about 3-20% by weight of antimicrobial agents (ionic liquid), which are used to remove causative microorganism associated with diaper rash (microbicidal properties), in an oil phase of a stable emulsion impregnated in a

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sheet of absorbent material, useful as cosmetic applicators for moisturizing babies' skins (Col. 1, lines 11-55 and Col. 3, lines 14-25). Salmon further discloses one specific cationic antimicrobial agent with a chloride (or halide) anion, which is Cetyl Pyridinium Chloride (CPC) (Col. 5, lines 4-15 and Example 1), having the following structure (see "CPC" in *Pharmaceutical & Cosmetic Fields*, WAKO):



This structure is encompassed by structure one (I) recited in claim 4 and structure two (II) recited in claim 5. In addition to the antimicrobial agents, the emulsions contain other anionic surfactants or water-soluble detergents, oil-based cleansing agents, alcohols, preservatives, and fragrance (Col. 4, lines 16-28, 40-49, 50-55, Example 1, and claim 6).

As to claims 13-14, Salmon teaches stirring or shaking the emulsions with the fragrance, and further cooling the mixture with agitation to below 30 degrees Celsius (Col. 5, lines 30-35).

Salmon does not mention the specific amounts of ionic liquid as recited in claim 3 and room temperature recited in claim 14.

Regarding the amount of ionic liquid, Salmon teaches 3-20% by weight, which overlaps with the claimed range of 0.5-10% by weight. As to the temperature, Salmon teaches temperature of 30 degrees Celsius and under, which overlaps with the claimed room temperature. Therefore, the subject matter

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as a whole would have been obvious to one having ordinary skill in the art at the invention was made, since it has been held that choosing the over lapping portion, of the ranges taught by Salmon and the range claimed by the applicant, has been held to be a *prima facie* case of obviousness, see *In re Malagari*, 182 USPQ 549.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hannah Pak whose telephone number is (571) 270-5456. The examiner can normally be reached on Monday - alternating Fridays (7:30 am - 5 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. Lawrence Tarazano/
Supervisory Patent Examiner, Art Unit 4171

Hannah Pak
Examiner
Art Unit 4171

/HP/